

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ANTHONY GEORGE HAYES,

Petitioner,

v.

RICK THALER,

Respondent.

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CIVIL ACTION NO. H-10-1091

ORDER ON DISMISSAL

Anthony George Hayes, a state inmate proceeding *pro se* and requesting leave to proceed *in forma pauperis*, challenges a disciplinary conviction. After reviewing the pleadings under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, the Court concludes that this case must be dismissed, as follows.

Background and Claims

Petitioner reports that he received a disciplinary conviction on January 20, 2010, for creating a disturbance at the Ferguson Unit. He was punished with temporary cell restrictions, loss of commissary privileges, and a reduction in line status. He reports that he lost no good time credit and is ineligible for mandatory supervised release. He raises various habeas challenges to the disciplinary conviction.

Analysis

According to well-settled precedent, sanctions that merely change the conditions of an inmate's confinement do not implicate due process concerns. *Madison v. Parker*, 104

F.3d 765, 768 (5th Cir. 1997). Limitations imposed upon commissary or recreational privileges and cell restrictions are the type of sanctions that do not pose an atypical or significant hardship beyond the ordinary incidents of prison life. *Id.* The Fifth Circuit has also decided that reductions in a prisoner's classification status and the potential impact on good time credit earning ability are not protected by the due process clause. *Malchi v. Thaler*, 211 F.3d 953, 958 (5th Cir. 2000).

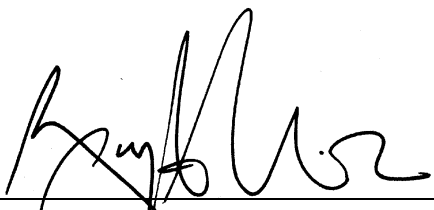
Accordingly, petitioner cannot demonstrate a violation of due process in connection with his disciplinary sanctions.

Conclusion

For these reasons, habeas relief is DENIED and this petition is DISMISSED WITH PREJUDICE. Any and all pending motions are DENIED AS MOOT. A certificate of appealability is DENIED.

The Clerk will provide a copy of this order to the parties.

Signed at Houston, Texas, on April 7, 2010.



Gray H. Miller
United States District Judge